

*DR 690-1-771

DEPARTMENT OF THE ARMY
ST. LOUIS DISTRICT, CORPS OF ENGINEERS
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103-2833

CEMVS-HR

1 October 1997

Regulation
No. 690-1-771

CIVILIAN PERSONNEL
ADMINISTRATIVE GRIEVANCE SYSTEM (AGS)

1. PURPOSE. To establish policy, delegate authority, assign responsibilities, and provide procedures for the St. Louis District Administrative Grievance System IAW the Department of Defense (DoD) AGS and the special Department of Army (DA) procedures supplemental to the DoD system. The AGS is an internal system for resolving employee grievances over matters under the control of management.
2. APPLICABILITY. Any employee not covered by a negotiated agreement may use the AGS to express dissatisfaction about working conditions, working relationships or employment status. Those matters of employment which are not covered are stated in 5 CFR 771.105 (b) and (c) and also in the DoD AGS, paragraph 13-1.c.(2) (a)-(f). The AGS covers bargaining unit employees when a matter covered by it cannot be grieved under their negotiated grievance procedure. Bargaining unit employees may take advantage of the Alternative Dispute Resolution (ADR) provisions in paragraph 7 below as long as management, the employee, and the union representative all agree that such provisions are appropriate to a given situation.
3. REFERENCES.
 - a. 5 CFR 771.
 - b. DoD Administrative Grievance System (AGS), 31 May 1994 with attached DA Special Grievance Procedures.
 - c. DoD Guide to ADR Initiatives (undated).
 - d. Administrative Dispute Resolution Act, Public Law 101-552.
 - e. Alternative Means of Dispute Resolution in the Administrative Process, 5 USC Section 571, et seq.

*This regulation supersedes DR 690-1-771, 3 Jan 83 and CH1, 1 Sep 87

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f. Civil Justice Reform, Executive Order (EO) 12778, 23 October 1991.

4. GENERAL. Normal day-to-day discussions between employees and supervisors regarding working conditions and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships. This regulation reflects recognition of this fact and, in addition, provides a means for the orderly consideration and resolution of those matters which are not or cannot be handled to the employee's satisfaction through regularly established supervisor-employee contacts and discussions.

5. RELATIONSHIP TO OTHER APPEAL OR COMPLAINT PROCEDURES. Decisions that can be appealed to the Merit Systems Protection Board (MSPB) or are subject to final administrative review by the Office of Personnel Management (OPM) or the Equal Employment Opportunity Commission (EEO) may not be grieved.

6. RESPONSIBILITIES.

a. The Commander is responsible for assuring compliance with the AGS and maintaining a positive work environment in which employees feel free to discuss their problems with management and ensuring that grievances are resolved fairly and promptly by management.

b. Supervisors and managers are responsible for giving fair and impartial attention to employees' problems and concerns; implementing the administrative grievance procedures; and for resolving employees' concerns at the lowest possible level.

c. The Human Resources Office (normally the Labor Relations Officer), in coordination with the Office of Counsel, is responsible for providing support to employees and supervisors in resolving problems presented under this procedure and assisting in the resolution of such disputes by appropriate ADR processes described in paragraph 7 below.

d. Employees are responsible for resolving problems at the lowest possible level, complying with the procedures and time limits in this regulation, and notifying their supervisor when invoking the AGS.

7. ALTERNATE DISPUTE RESOLUTION (ADR). It is the Corps policy to try to resolve all disputes by mutual agreement without other administrative procedures or litigation. If both the employee and supervisor agree (if ADR is used by bargaining unit employees, Union representative must also agree), an ADR technique, as outlined below, may be used to assist in such resolution. A Personnel Management Specialist (PMS) and/or Labor Counselor will be assigned to advise and assist the parties and may serve as a facilitator/mediator. Other trained facilitators/mediators may be used as appropriate.

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c. Definitions.

(1) ADR. Any procedure or combination of procedures voluntarily used to resolve contentious issues without the need to resort to litigation or other formal administrative procedures.

(2) Aggrieved party. The individual or group bringing an issue for resolution. Includes Federal government employees, unions or management officials.

(3) Dispute. Dispute refers to an issue in controversy, protest, or claim submitted to or by the St. Louis District or a recognized bargaining unit.

(4) Dispute Resolution Panel. An ADR technique comprised of an ad hoc panel with authority and applicable technical expertise to resolve disputes. The composition and parameters of the panel will be determined by the parties involved in the dispute.

(5) Early Neutral Evaluation. Where a neutral reviews aspects of a dispute and renders an advisory opinion as to the likely outcome.

(6) Facilitation. An ADR technique involving the use of a facilitator who helps the parties reach a decision or satisfactory resolution by conducting meetings and coordinating discussions, but does not become as involved in the substantive issues as does a mediator. The facilitator does not render a decision; any decision must be reached by the parties themselves.

(7) Fact-Finding. Fact-finding is the investigation of specified issues by a neutral individual who has subject-matter expertise. Fact-finding uses informal investigatory procedures designed to narrow factual or technical issues in dispute. The process usually results in a report, testimony, or advisory opinion.

(8) Interest-Based Problem Solving (IBPS). Resolving problems by identifying interests, i.e., needs, desires, concerns, fears, and coming up with options which address all the interests of those involved in solving the problem.

(9) Mediation. An ADR technique involving the use of a neutral third party to assist the parties in negotiating an agreement. The mediator has no independent authority and does not render a decision; any decision must be reached by the parties themselves.

(10) Negotiation. Negotiation is communication among people or parties in an effort to reach an agreement.

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(11) Neutral. A neutral is an impartial third party or parties who serves as mediator, facilitator, fact-finder, or arbitrator or otherwise assists the parties in resolving disputes.

(12) Ombudsperson. A neutral who reviews a complaint and assists in reaching a fair settlement. Sometimes this neutral will be utilized as a clearinghouse for the various types of ADR procedures suitable for the matter at issue.

(13) Preventive ADR. An attempt to avert conflict by creating procedures to address possible future disputes. Doesn't actually stop disputes. Rather, it provides a mechanism for channeling disputes into problem solving processes.

(14) Responsible Official. The party with authority to act for management (normally the lowest level with authority to resolve the dispute).

d. Request for Use of ADR Procedures.

(1) Aggrieved parties desiring to use ADR procedures to resolve their disputes may submit a written request to their supervisor or other appropriate official. Requests for use of ADR procedures shall include the aggrieved party's name, address, and telephone number, including FAX number, if applicable; the event or action involved; a detailed statement of the legal and factual grounds for the dispute, including copies of relevant documents; and a request for resolution, including the specific relief desired. All bargaining unit employee requests must be signed by an authorized union representative. Management may also request the use of ADR when appropriate (e.g., when presented an informal grievance under a negotiated agreement or during the problem solving stage of the DoD AGS).

(2) Upon receipt of a request for ADR procedures, the responsible official will coordinate with HR to determine whether ADR is appropriate for resolution of the issues. If it is determined that ADR is not appropriate, the aggrieved party will be promptly informed of the reasons for not using ADR. Reasons for not using an ADR procedure may include, but are not limited to:

(a) Requirement for a definitive or authoritative resolution of the matter for precedential value and the ADR proceeding is not likely to be accepted as an authoritative precedent.

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(b) The matter involves a significant question of Government policy that requires additional procedures before a final resolution can be made.

(c) Maintaining established policies is of special importance and an individual ADR decision would not likely reach results consistent with policy.

(d) The matter significantly affects persons or organizations who are not parties to the proceeding.

(e) A full public record is important and an ADR proceeding cannot provide such a record.

(3) Processing the dispute. Within ten (10) work days of receipt of the request for ADR, the responsible official will meet with the aggrieved party to determine the ADR procedure to be used in resolving the dispute. Once an ADR procedure has been agreed to, every effort will be made to resolve the issue within 30 calendar days from the date of that agreement.

(4) When ADR is used under a negotiated grievance procedure, each party to the dispute will be responsible for the costs they incur in using ADR procedures. This includes the cost of witnesses, travel, affidavits and other administrative expenses. The parties may elect to share certain expenses.


(5) Time limits. The use of ADR procedures does not alter any of the time limitations or procedural requirements for other administrative procedures. Parties will agree to suspend time limits for filing formal grievances under negotiated agreements until the ADR process is complete or terminated. (See paragraph 13-2 of the DoD AGS.)

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(6) Termination of ADR procedures. The responsible official or the aggrieved party may terminate use of the ADR procedure at any time upon giving written notice to the other party.

APPENDIX A:
DoD AGS


THOMAS J. HODGINI
COL, EN
Commanding

DISTRIBUTION:
All Supervisors
CEMVS-HR (30)
CEMVS-IM-P (4)
CEMVD